

BOULT
CUMMINGS
CONNERS
& BERRY

REG'D TN
PLC
REGULATORY AFFAIRS

LAW OFFICES
414 UNION STREET, SUITE 1600
POST OFFICE BOX 198062
NASHVILLE, TENNESSEE 37219

FEB 9 PM 3 26

Henry Walker
(615) 252-2363
Fax: (615) 252-6363
Email: hwalker@bccb.com

TELEPHONE (615) 244-2582
FACSIMILE (615) 252-2380
INTERNET WEB <http://www.bccb.com/>

February 9, 2001

EXECUTIVE SECRETARY

David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37219

IN RE: *Rulemaking to Amend Slamming Rules*
Docket No. 00-00983

Dear David:

Enclosed for filing are Supplemental Comments filed on behalf of Southeastern Competitive Carriers Association ("SECCA"), XO Tennessee, Inc., MCI WorldCom, AT&T Communications of the South Central States, Inc. and Time Warner Telecom of the MidSouth, L.P. in the above-referenced docket.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

Henry Walker

Henry Walker

by WSM w/
permission

HW/nl
Attachment

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

In re: *Rulemaking to Amend Slamming Rules*
 Docket 00-00983

**SUPPLEMENTAL COMMENTS OF THE SOUTHEASTERN COMPETITIVE
CARRIERS ASSOCIATION, XO TENNESSEE, INC., MCI WORLDCOM, AT&T
COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC. AND TIME
WARNER TELECOM OF THE MIDSOUTH , L.P.**

On October 31, 2000, the Tennessee Regulatory Authority ("TRA"), pursuant to Tennessee Code Annotated, Section 65-2-102, released its Notice of Rulemaking Hearing to consider the promulgation of rules and the amendment of rules with respect to current subparagraph (d) of paragraph (2) of Rule 1220-4-2-.56, Verification of Orders for Changes of Long Distance Carriers.

On December 18, 2000, the TRA held a hearing for the purpose of receiving public comment on the proposed rules contained in the notice.

On January 19, 2001, the Southeastern Competitive Carriers Association (SECCA)¹, XO Tennessee, Inc. (XO), MCI WorldCom (MCI WorldCom), AT&T Communications of the South Central States, Inc. (AT&T), and Time Warner Telecom of the MidSouth, L.P. (Time Warner), submitted comments concerning the proposed rules. In those comments, the parties generally agreed with the TRA about the dynamics of the marketplace and recognized the concern of protecting customers as they are transferred from the base of an acquired carrier to an acquiring carrier. Additionally, the parties requested that the TRA mirror, as identically as possible, the Federal Communications Commission's ("FCC's") requirements on this issue, just as the Authority has done

¹SECCA members include: ACCESS Integrated Networks, Inc., Actel Integrated Communications, Inc., Association of Communications Enterprises (ASCENT), AT&T of the South Central States, Inc., Birch Telecom, Inc., Business Telecom, Inc., Competitive Telecommunications Association, ConnectSouth Communications, Inc., e.spire Communications, KMC Telecom, ICG Communications, ITC^DeltaCom, Inc., MCI WorldCom, NewSouth Communications, Qwest Communications, Time Warner Telecom, TriVergent Communications, US LEC Communications, XO Communications.

with its existing slamming rules.

Since the parties filed their comments, the FCC has taken action regarding this very issue.

On January 18, 2001, The Federal Communications Commission (FCC) issued its Third Further Notice of Proposed Rulemaking, CC Docket No. 00-257, *In the Matter of 2000 Biennial Regulatory Review –Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers* and CC Docket No. 94-129, *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, and In the Matter of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers, (Third Further Notice)*.

The FCC stated:

Given the dynamic marketplace, and the likelihood that carriers will continue to buy, sell, and transfer customer lines in the future, we think it is time to reexamine our rules in this limited situation to ensure that we do not inadvertently inhibit routine business transactions. In conjunction with our biennial regulatory review effort, we propose to modify the authorization and verification requirements of the Commission's carrier change rules to reduce regulatory burdens in situations involving the purchase or transfer of customer lines, while adequately protecting consumers. We invite comment on whether the Commission's carrier change authorization and verification rules should be amended to provide a streamlined procedure for carriers desiring to transfer the presubscribed customers of another carrier to their own customer bases.

Third Further Notice at 1-2. In its *Third Further Notice*, the FCC proposed to adopt specific measures to address this issue, as follows:

6. We seek comment on whether to amend section 64.1120 of our rules to eliminate the need for authorization and verification of a carrier change to effect any sale or transfer of a subscriber base, provided that, not later than 30 days before the closing of the transaction, the acquiring carrier gives each affected subscriber written notice of the following information: 1) the acquiring carrier will be the new provider of telecommunications service for the subscriber; 2) the rates, terms, and conditions of the services offered by the purchasing carrier; 3) no carrier change charges will be imposed as a

result of the transaction; and 4) the subscriber has the right to select a different preferred carrier. We also seek comment on whether to require the acquiring carrier to provide each subscriber with another written notice reiterating this information after the transfer has occurred. Insofar as these notices directly affect the provision of a subscriber's telephone service, we seek comment on the need for acquiring carriers to provide these notices in accessible formats to people who are blind or visually impaired. In addition, we seek comment on whether to require the acquiring carrier to notify the Commission of a sale or transfer not later than 30 days before the closing of the transaction and to certify its compliance with the Commission's rules and any outstanding Commission orders, including the provision of reasonable notice to the affected customers regarding the transaction and the customers' subsequent rights. We seek comment on whether 30 days is the appropriate length of time for notifying subscribers and/or certifying compliance with the Commission requirements. We also invite comment on these proposals and any other alternative proposals that would minimize regulatory burdens, while adequately protecting consumers.

7. We ask commenters to address whether this proposed expedited proves properly balances our obligation under section 258 to protect subscribers from the unauthorized change of their preferred carrier with the goal of ensuring that our rules do not unnecessarily impede marketplace transactions involving the sale or transfer of customer lines or accounts from one carrier to another. We also invite parties to comment on whether notice requirements should differ depending upon the type of telecommunications service being provided, such as local, intraLATA toll, or interLATA toll service, or upon the size of the carriers involved. We also seek comment on whether any additional obligations should be imposed on the carriers. For example, should the acquiring carrier be required to provide a toll-free customer service number to the affected subscriber in order to address any questions or problems that the subscriber may have concerning the change in service providers? Should the acquiring carrier be required to continue to charge affected subscribers the same rates as those charged by the original carrier for a specified period after the transfer. Should the carriers commit to handling customer complaints regarding the service of the original carrier to ensure that transferred subscribers are not deprived of recourse after the transfer? We also seek comment on whether we should adopt specific measures to protect consumers from unscrupulous carriers that may attempt to sell their customer bases to evade the repercussions of Commission enforcement actions.

Third Further Notice at 4-5. The FCC requested that interested parties file comments on the

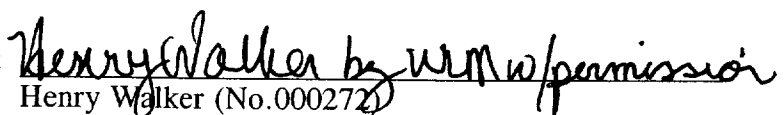
proposed measures 21 days after publication in the Federal Register and reply comments 31 days after publication in the Federal Register. It thus appears that the FCC is addressing the very same concern at issue in this proceeding and intends to issue comprehensive rules in order to address the issue.

The adoption of a standard and consistent set of rules governing transfers and sales of subscriber bases is clearly in the best interests of carriers and customers alike. Customers are best served by consistent, uniformly applicable standards that they can easily understand. Similarly, carriers, most of which offer service throughout the country, are better able to serve their customers by adhering to a single set of requirements, particularly on issues such as this which are generally national in scope. Uniform standards also allow carriers to better control costs and thus rates. Any additional or inconsistent rules promulgated by this Authority would create additional regulatory burdens on all carriers, with the potential to increase costs, create customer confusion, and possibly delay transfers or sale applications.

In light of the FCC's *Third Further Notice* and the initiation of a comment cycle on this issue, the parties request that the TRA defer action regarding their proposed rules until the FCC has made its final determination. Tennessee consumers will be better served by allowing the opportunity for the FCC to develop a uniform set of consistent rules addressing this issue.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
Henry Walker (No.000272)
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363

Susan Berlin by WLM w/permission

Susan Berlin
MCI Telecommunications Corporation
Concourse Corporate Center Station
6 Concourse Parkway, Ste. 3200
Atlanta, GA 30328
Counsel for MCI WorldCom

Dana Shaffer by WLM w/permission

Dana Shaffer
XO Tennessee, Inc.
105 Molloy St.
Nashville, TN 37201
Counsel for XO Tennessee, Inc.

Charles B. Welch Jr. by WLM w/permission

Charles B. Welch
Farris, Mathews, Branam & Hellen, P.C.
205 Capitol Blvd., #303
Nashville, TN 37219
*Counsel for Time Warner Telecom of the
MidSouth. LP*

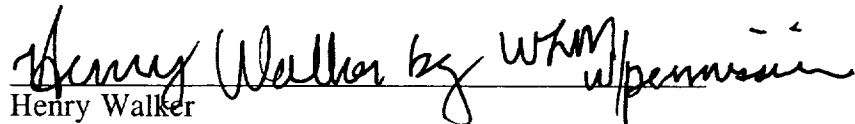
James Lamoureux by WLM w/permission

James Lamoureux
A&T Communications
1200 Peachtree St., NE
Atlanta, GA 30309
*Counsel for AT&T Communications of the South
Central States*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 9th day of February, 2001.

Guy Hicks, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St.
Suite 2101
Nashville, TN 37201-3300


Henry Walker